

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2016-022-00163R

Parcel No. 22-34-327-001

Robie and Kimberly Brimeyer,

Appellants,

vs.

Clayton County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 5, 2016. Robie Brimeyer represented himself and his wife, Kimberly Brimeyer. Clayton County Assessor Alan Heavens represented the Board of Review.

The Brimeyers are the owners of a residential property locally known as 43344 Coffee Road, Holy Cross. Built in 2003, the one story ranch home is situated on a 3.86 acre lot. (Ex. A).

The property's January 1, 2016 assessed value was set at \$233,525, allocated as \$40,010 in land value and \$193,515 in dwelling value. (Ex. A). On their protest to the Board of Review, the Brimeyers claimed their property was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(b), and essentially reiterated this claim on several other lines reserved for other protest grounds. The Board of Review denied the petition. The Brimeyers then appealed to PAAB, reasserting their claim of overassessment and stating \$205,000 is the correct value for the subject property.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2016). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

Overassessment Claim

i. Applicable Law

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the

assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

ii. Findings of Fact

Brimeyer argues the subject property's January 1, 2016 assessed value is higher than its market value, citing an August 2015 appraisal that opines the subject's value is \$205,000. (Ex. 1). However, the record reflects an out-building was constructed after the appraisal was completed.

Brimeyer refers to the out-building as a shed. However, it is much larger than what is typically thought of as a shed. The 30-foot x 48-foot structure's assessed value was set at \$29,439. (Ex. A). Brimeyer argues it only cost him \$21,000 to build. However, it is unknown whether his costs include labor. Therefore, we are unable to draw any conclusions regarding his reported cost and the assessed value. Furthermore, there is no evidence in the record detailing the out-building's features; for example, whether it has a heating and/or cooling system, concrete floor, or overhead doors.

If the assessed value of the out-building were subtracted from the subject's total assessed value the resulting total is \$204,086, nearly the exact value found in the 2015 appraisal. Given Brimeyer disputes the out-building's assessed value; an update of the appraisal after it's constructed might have been worthwhile for proving its value as well as the total value of the property.

Brimeyer appeared frustrated he never had an opportunity to talk with the Board of Review regarding its decision. However, the record reflects Brimeyer did not request an oral hearing by checking the box on his Board of Review petition; had he done this it would have given him an opportunity for a conversation with the Board of Review during the appeal process. Furthermore, it is customary for the Board of Review to adjourn before the aggrieved taxpayer receives his or her decision.

Conclusions of Law

Under Iowa law an appellant is required to prove the correct market value of the subject property is less than its assessment value. However, we find Brimeyer's

appraisal is not a reliable indicator of value for the subject property because it fails to value all of the property's improvements.

Based on the foregoing, and by a preponderance of all evidence in the record, we find the Brimeyers failed to show the subject property is over assessed.

Order

PAAB ORDERS the Clayton County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015).

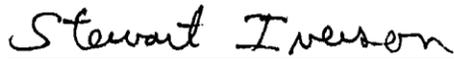
Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 17th day of November, 2016.



Camille Valley, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:

Robie and Kimberly Brimeyer by eFile

Alan Heavens, Clayton County Assessor by eFile